

ENTERED

May 23, 2022

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

No. 3:22-cv-52

JULIO A. ZUNIGA, TDCJ #1961551, PLAINTIFF,

v.

CHIEF PATRICK O'DANIEL, *ET AL.*, DEFENDANTS.

ORDER

JEFFREY VINCENT BROWN, UNITED STATES DISTRICT JUDGE.

Plaintiff Julio A. Zuniga, a Texas state inmate, filed a complaint under 42 U.S.C. § 1983, alleging violations of his civil rights. Representing himself, Zuniga has also filed a motion to proceed *in forma pauperis*. Because Zuniga is incarcerated, this case is governed by the Prison Litigation Reform Act (PLRA). The PLRA requires prisoners who proceed *in forma pauperis* to pay an initial partial filing fee and then to pay by installment the full balance of the \$350.00 filing fee for indigent litigants. *See* 28 U.S.C. § 1915(b).

Based on the documents provided by Zuniga, the court **ORDERS** as follows:

1. The motion to proceed *in forma pauperis* (Dkt. 2) is **GRANTED**.
2. Zuniga is assessed an initial partial filing fee of \$121.00. The agency

having custody of Zuniga will collect this amount from Zuniga's inmate trust fund account or institutional equivalent, when funds are available, and forward it to the Clerk.

3. Zuniga must pay \$229.00, the balance of the filing fee, in periodic installments, as required by 28 U.S.C. § 1915(b). The agency having custody of Zuniga will collect this amount from Zuniga's inmate trust fund account or institutional equivalent, when funds are available, and forward it to the court.

4. Service of process will be withheld pending judicial screening under 28 U.S.C. § 1915A.

5. No amendments or supplements to the complaint may be filed without prior court approval. A complete amended complaint must be attached to any motion to amend. Any pleadings or other papers filed in violation of these directives may automatically be **STRICKEN** from the record without further notice, including any pleadings or other papers which contain any new claims or any new factual allegations not already explicitly raised in the original pleadings or any court-approved amendments or supplements to the pleadings. Any pleadings or other papers filed in violation of these directives in this paragraph may also subject Zuniga to other sanctions, including the dismissal of this suit for failure to comply with court orders, if appropriate.

Zuniga's pending motions for leave to file an amended complaint (Dkt. 13, 15, 23) are **DENIED**. Zuniga's pending motions to add new parties (Dkt. 22, 24)

are **DENIED**.

6. All discovery in this case is stayed until further notice. Zuniga's motion for production of documents (Dkt. 33) is **DENIED**.

7. No motions for appointment of counsel will be considered until the court has completed its screening under 28 U.S.C. §§ 1915A, 1915(e)(2)(B) to determine if the complaint is frivolous, malicious, or fails to state a claim. Zuniga's motion for appointment of counsel (Dkt. 10) is **DENIED**.

8. Zuniga must notify the court of any change of address by filing a written notice of change of address with the Clerk. Failure to file such notice may result in this case being dismissed for want of prosecution.

NOTICE TO PLAINTIFF

A. Although you have been granted permission to proceed without prepayment of the filing fee, you must pay the full amount of the filing fee when funds are available under 28 U.S.C. § 1915(b). If you do not wish to pay the full filing fee you must notify the court immediately in writing, by letter or motion, advising that you do not wish to prosecute this civil action. Your notice must be received by the court within thirty days of the date of this order.


B. Payment of all or any part of the full filing fee will not prevent dismissal of the complaint if it is frivolous, malicious, or fails to state a claim upon which relief may be granted. If the case is dismissed on any of those grounds before payment of the entire filing fee, you must still pay the entire filing fee. When a

prisoner has had three or more prior actions or appeals dismissed for being frivolous, malicious, or failing to state a claim upon which relief may be granted, the PLRA prohibits the prisoner from bringing any more actions or appeals *in forma pauperis* unless the prisoner is in imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g).

C. State law requires the forfeiture of good conduct time credits as a sanction for any state or federal lawsuit brought by an inmate while in the custody of TDCJ, or confined in county jail awaiting transfer to TDCJ, that is dismissed as frivolous or malicious. *See* Tex. Gov't Code § 498.0045.

The Clerk will send a copy of this order to the parties and will also provide a copy of this order to the Inmate Trust Fund at: ctfcourt.collections@tdcj.texas.gov.

Signed on Galveston Island this 23rd day of May, 2022.



JEFFREY VINCENT BROWN
UNITED STATES DISTRICT JUDGE